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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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EXAMINER

LAYE, JADE O

ART UNIT	PAPER NUMBER
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2623

DATE MAILED: 05/03/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/748,905

Applicant(s)

STEADING ET AL.

Examiner

Jade O. Laye

Art Unit

2623

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 27 February 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-29 is/are pending in the application.
- 4a) Of the above claim(s) 21-29 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-29 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>3/22/06</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Response to Amendment

I. Applicant's amendments, dated 2/27/06, have been entered and made of record. Accordingly, the objection applied to Claim 4 is withdrawn.

Response to Arguments

II. Applicant's arguments filed 2/27/06 have been fully considered but they are not persuasive. Accordingly, **THIS ACTION IS MADE FINAL**.

Applicant argues *Schneidewend* fails to obviate the claim language because *Schneidewend* defines an "event" as an individual program on a channel, while the Examiner defines "event" as a "sub-channel." However, the Examiner finds this distinction irrelevant and maintains the rejection.

In the sake of full disclosure, it should be noted Applicant's statement regarding the Examiner's interpretation of "event" is not entirely accurate. On page 3 of the previous action, the Examiner interpreted an "event" as the "various nbc shows." This interpretation nor the one given during the interview, was meant to limit the Examiner to any specific definition, but rather, provided as illustrations. In fact, *Schneidewend's* subchannels or individual programs could be interpreted as "events."

Schneidewend's interpretation of "event" is irrelevant to the rejection. What is relevant is that *Schneidewend's* subchannels and individual programs read upon Applicant's "events." Both

the subchannels and individual programs can be associated to create packages, thus reading upon Claim 1. Accordingly, the Examiner maintains the previous rejection.

Specification

III. The title of the invention is not descriptive. A new title is required that is clearly indicative of the invention to which the claims are directed. It is suggested the Applicant insert language which is directed to “packaging” of programs.

Claim Rejections - 35 USC § 103

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

IV. Claims 1-13, 15-17, 18, and 19 are rejected under 35 U.S.C. 103(a) as being unpatentable over *Schneidewend et al* (US Pat. No. 6,249,320) in view of *Knudson et al*. (US Pat. No. 6,016,141).

Claim 1 recites a method for allowing programming providers to offer subscribers programming events comprising limitations which are too numerous to recite herein. However, each limitation will be addressed in turn. As to Claim 1, *Schneidewend et al* disclose an electronic programming guide (“EPG”) having a programming grid which simultaneously displays an “NBC” wrapper (component 1210 of Fig. 12), a package of programming (i.e., various nbc channels) and its associated events (i.e., various nbc shows), and the start and stop

times of said associated events. Moreover, a user is allowed to scroll the channels and events within each channel. (Abstract; Fig. 12 & 13; Col. 1, Ln. 65-Col. 2, Ln. 13; Col. 11, Ln. 49-Col. 12, Ln. 26).

However, *Schneidewend* fails to teach the use of packages as defined on page 13 of Applicant's specification. As discussed in *In re Paulsen*, applicant is entitled to be his or her own lexicographer and may rebut the presumption that claim terms are to be given their ordinary and customary meaning by clearly setting forth a definition of the term that is different from its ordinary and customary meaning. 30F.3d 1475, 1480, 31 USPQ2d 1671, 1674 (Fed. Cir. 1994). "Where an explicit definition is provided by the applicant for a term, that definition will control interpretation of the term as it is used in the claim." *Toro Co. v. White Consolidated Industries Inc.*, 199 F.3d 1295, 1301, 53 USPQ2d 1065, 1069 (Fed. Cir. 1999). Therefore, as defined by the Applicant, the Examiner interprets "packages" to mean "a preassembled grouping of individual events to be sold as a single package." (Pg. 13, Spec.).

Schneidewend fails to specifically teach the packages displayed in Figure 12 were sold as a single package. However, within the same field of endeavor, *Knudson et al* disclose a similar system which teaches the use of packaged pay programming was well known in this art at the time of Applicant's invention. (Col. 1, Ln. 29-40). Accordingly, it would have been obvious to one having ordinary skill in this art at the time of Applicant's invention to combine the systems of *Schneidewend* and *Knudson* in order to provide a system which supplies information on pay program packages and facilitates the ordering of such packages.

Claims 8, 10, and 15 correspond to Claim 1. Thus, each is analyzed and rejected as discussed previously.

As to Claim 2, *Schneidewend* further teaches combining the events that are related by NBC (i.e., source). (Fig. 12). Accordingly, the combined systems of *Schneidewend* and *Knudson* disclose all limitations of Claim 2.

Claim 9 corresponds to Claim 2. Thus, it is analyzed and rejected as previously discussed.

As to Claim 3, *Schneidewend* (Fig. 12) displays one package and its associated events, but fails to specifically teach the system is capable of displaying numerous packages and their associated events. However, this would have been an obvious variant of *Schneidewend*'s disclosure. Accordingly, it would have been obvious to one having ordinary skill in this art at the time of Applicant's invention to modify the combined system *Schneidewend* and *Knudson* in order to provide an EPG which is more user friendly.

Claim 16 corresponds to Claim 3. Thus, it is analyzed and rejected as previously discussed.

As to Claim 4, *Schneidewend* further teaches the EPG allows for the highlighting of programs and "minor channels." (Col. 11, Ln. 49-Col. 12, Ln. 26; Fig. 12). But, *Schneidewend* fails to specifically disclose whether the EPG also allows for the highlighting of the "major channels" (i.e., wrappers). However, in light of this disclosure, such a limitation would be an obvious variant. Accordingly, it would have been obvious to one having ordinary skill in this art at the time of Applicant's invention to modify the combined system *Schneidewend* and *Knudson* in order to provide an EPG which allows for a more user-friendly selection of channels.

Claim 18 corresponds to Claim 4. Thus, it is analyzed and rejected as previously discussed.

As to Claim 5, *Schneidewend* further displays the EPG is capable of expanding to show the channels which are associated with each event (i.e., 12-1, 12-2, etc.). (Fig. 12). Accordingly, the combined systems of *Schneidewend* and *Knudson* disclose all limitations of Claim 5.

As to Claim 7, *Schneidewend* further teaches the time and channel info related to the various packages are displayed. (Fig. 12). Accordingly, the combined systems of *Schneidewend* and *Knudson* disclose all limitations of Claim 7.

As to Claim 11, *Schneidewend* further discloses the use of a remote control. (Col. 3, Ln. 37-40). Accordingly, the combined systems of *Schneidewend* and *Knudson* disclose all limitations of Claim 11.

As to Claim 13, *Knudson* further teaches the system provides additional information describing the pay per view events. (Col. 4, Ln. 66-Col. 5, LN. 16; Fig. 3). Accordingly, the combined systems of *Schneidewend* and *Knudson* disclose all limitations of Claim 13.

As to Claim 19, *Schneidewend* further discloses the use of an expanded package (as discussed under rejection of Claim 7), but fails to disclose the remaining limitation. However, the system of *Knudson* allows the user to highlight an event to initiate a purchase. (Col. 6, Ln. 42-51). Accordingly, the combined systems of *Schneidewend* and *Knudson* disclose all limitations of Claim 19.

V. Claims 6 and 12 are rejected under 35 U.S.C. 103(a) as being unpatentable over *Schneidewend et al* in view of *Knudson et al* as discussed under Claim 1, and further in view of *Ellis et al.* (US Pat. No. 6,604,240).

Claim 6 recites the method of Claim 1, wherein the EPG further comprises a collapsed mode in which only time information concerning the packages are displayed. As discussed above, the combined systems of *Schneidewend* and *Knudson* disclose all limitations of Claim 1, but fail to disclose those of Claim 6. However, within the same field of endeavor, *Ellis et al* disclose a similar system which allows for a collapsed mode in which only time information concerning a package is displayed. (Fig. 11). Accordingly, it would have been obvious to one having ordinary skill in this art at the time of Applicant's invention to combine the systems of *Schneidewend*, *Knudson*, and *Ellis* in order to provide a system which enhances the ability of a service provider to supply users with information regarding available programming.

Claim 12 corresponds to Claim 6. Thus, it is analyzed and rejected as previously discussed.

VI. Claims 14, 17, and 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over *Schneidewend et al* in view of *Knudson et al* as applied to claim 10 above, and further in view of *Rowe et al*. (US Pat. No. 5,812,123).

Claim 14 recites the system of Claim 10, wherein when a package comprises non-contiguous events, the processor implementing commands to the navigator that scrolls to a next time and a next channel of an associated event within a package. As discussed above, the combined systems of *Schneidewend* and *Knudson* disclose all limitations of Claim 10, but fail to specifically recite the limitations of Claim 14. However, within the same field of endeavor, *Rowe et al* disclose a similar EPG which displays non-contiguous programming packages. (Fig. 2). When displayed, the system will allow a user to scroll to a next channel and time of another

associated event in a package. For example, in Figure 2, the user viewing the Sports package is allowed to scroll from Tuesday's NBC Channel Seattle game to Wednesday's Access Channel Lincoln HS game. Accordingly, it would have been obvious to one having ordinary skill in this art at the time of Applicant's invention to combine the systems of *Schneidewend*, *Knudson*, and *Rowe* in order to provide a system which allows a user to efficiently scroll non-contiguous programming occurring on differing channels.

Claim 17 corresponds to Claim 14. Thus, it is analyzed and rejected as previously discussed.

Claim 20 contains limitations which mirror those of Claim 11. Thus, it is analyzed and rejected as discussed therein.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jade O. Laye whose telephone number is (571) 272-7303. The examiner can normally be reached on Mon. 7:30am-4, Tues. 7:30-2, W-Fri. 7:30-4.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Chris Kelley can be reached on (571) 272-7331. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR


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system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Examiner: Jade O. Laye

Initials: JK

April 28, 2006.


CHRIS KELLEY
SUPERVISORY PATENT EXAMINER
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